

Utah Council on Victims of Crime

Thursday, October 29, 2009

Lunch - 11:30 a.m.

Meeting - 12:00 p.m.

Capitol Board Room
2nd Floor - Utah State Capitol
Salt Lake City, Utah

In Attendance:

Reed Richards

Mel Wilson

Ned Searle

Kyle Goudie

Doug Fawson

Tammie Atkin

Allison Williams

Brandon Simmons, guest

Laura Blanchard

Christine Watters

Kirk Torgensen

Yvette Rodier Evans

James Swink

Steve Schreiner

Heidi Nestel, guest

Andrew Stoddard, guest

Ron Gordon

Cecelia Swainston

Patricia Sheffield

Mike Rapich

Marlesse Whittington

Shelley Haupt

Jacey Skinner, guest

Tony Graf, guest

MINUTES

Agenda Item:	Welcome & Introductions, Reed Richards
Discussion:	Reed welcomed everyone and convened the meeting.

Agenda Item:	Utah Victim Assistance Academy, Mel Wilson & Cacey Yeates
Discussion:	<p>Mel passed around a memo that Cacey Yeates prepared. They've spent some time reviewing past Academies in regards to costs. In the past they have put on Advanced Academies, but because of the economy and the fact that they haven't been self-sustaining they weren't able to do one this year. Mel asked Cacey what the benefits and drawbacks would be if we alternated the Academy and Advanced Academy every other year. If it was held every other year the problem that creates is if someone is hired they would have to wait 18 months or more to attend.</p> <p>Mel wanted to call the Council's attention to the 4th page which discusses the budgets. The budget doesn't include Cacey's salary, which is a significant part. Three-fourths of her salary is</p>

	<p>now devoted to the victim advocate position and one-fourth is towards the Academy. They are trying to look at line items in both budgets to save money. For example, instead of the manual, which costs thousands to produce, everyone received a flash drive. The Academy use to receive 1% from administrative costs of the original 5% to assist in paying for the Academy, but now that goes by the Board and the money is no longer available.</p> <p>Other concerns were the need for better coordination between SWAVO and the Academy and if we didn't have the Academy would people have enough hours of credentialing? Mel would like the Council to look over the memo and decide if we want to create a new committee or resurrect the old one to address these issues and invite SWAVO to that. Patricia, Laura, Cecelia, Tammie and Shelley Haupt volunteered to be on the sub-committee. He asked if we would put this on the next agenda and figure out what changes should be made.</p>
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Agenda Item:	VINE, Mel Wilson & Cacey Yeates
Discussion:	VINE has been a work in progress. Currently on VINE is the prison, Board of Pardons and jail system but neither the court nor juvenile court. Mel would like to monitor this to see how much usage the courts are receiving. Ron said at a later date we could talk about an email based system in regards to protective orders. Currently we are receiving \$500,000 from the government to work on this. Mel and Reed will meet to discuss this issue.

Agenda Item:	DV Reports, Ned Searle
Discussion: DV Sentencing Matrix	Jacey Skinner is working with a few judges to present the sentencing matrix info to them where she will then go to some of the justice courts and see what resources they have and how it works for them because a lot of this matrix will pan out in the justice courts. Moises Prospero is working on research on how to correlate all of this together along with the severity of offenses so that we can give judges some good avenues as far as sentencing. Moises would like to be done in January but possible it would be later. He hopes the literature will be out soon so that the judges they've been working with can then instruct other judges. Reed asked if the matrix was just a resource or if they want to formally adopt it. Ned thinks it's going to be more of a guide especially in the beginning, whereas

	Jacey indicated it will be a formal resource. Reed then asked if the Sentencing Commission, Council and UDVC approve this and then it will go to the judges. Christine said the Council could use some grant money to train on the matrix. Ned indicated he would love that and told Christine to keep thinking about it.
Discussion: Strangulation	Representative Seelig will be running the strangulation bill. She approached Paul Boyden to come up with some language so there won't be a fiscal note attached. After SWAP deliberated with it though they have come up with lines six through nine which will add a fiscal note. This will be the final language so Rep. Seelig wants to run a resolution so a fiscal note won't be attached to it, because they've never put a fiscal note on any resolution. She wants to run both of them at the same time knowing the fiscal note will kill the bill but it will put through the resolution. Reed suggested that we clarify, not change the law, so that might be a way to get it through, cost-wise. Ron said they would get at least one new commitment on this. Ned would love Kirk to sit in on those discussions because Kirk doesn't think it would need a fiscal note.

Agenda Item:	Food Policy, Ron Gordon
Discussion:	Ron has implemented a new food policy that affects all meetings, except for full day meetings lasting six hours or more, that states no food should be served. There are a few different reasons for the change. One is that CCJJ is funded out of CVR's fund which has reduced its expenditures by two million each year and by \$500,000 per year off the backs of victims. There are also questions by the Legislature for any unnecessary expenses, such as food. A couple questions were posed as resolutions to be able to accommodate food such as should the meeting time be changed or if one of our offices could provide the food? Ron responded to that indicating it wasn't good policy for an office to provide or to solicit food donations. Also, does it matter if our money is out of the general fund or not? Ron said no, that didn't matter. Reed then asked if we could not forgo our per diem and Ron said we cannot make a food purchase, but if one were to be made it would have to be under someone's personal credit card. It was suggested we brown bag lunch, just eat beforehand or buy a lunch at the cafeteria and bring it up to the meeting. Kirk doesn't have a problem with the new food policy personally and most everyone agreed. Mel said that we have talked about this long enough so in order to move on Reed

	said he would think of alternative solutions.
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Agenda Item:	Victim Advocacy Manual, Reed Richards & Mel Wilson
Discussion:	<p>Mel and Reed recently met with the SWAVO group about this victim advocacy manual. The Council discussed the need for a manual as a resource guide months ago. It would include basic information, forms, contacts, sample victim impact statements, etc. It could be a main text for the Academy. SWAVO came up with the idea for a steering committee and a point of contact that would be paid to put the manual together. They wanted two from SWAVO and two from the Council and Mel and Christine will look into the point of contact paid person. Christine thought it was possible to take money out of VOCA administrative costs to pay this person.</p> <p>Cecelia asked if we were thinking of desktop manuals because she thought creating electronic manuals will cut costs and be more realistic since there will be constant changes to the manual. Patricia thinks that's a great idea because we need consistency otherwise it will cause problems if people are working out of manuals with old data and materials. Mel thinks Cecelia's point is great because it will be an on-going process that will be expanded and will change often. Marlesse said even though it will be an electronic version, the advocates could still print out sections they want as not every advocate will want each section. Cecelia suggested we could also have a sample resource section where advocates could add to it.</p> <p>Kyle and Yvette volunteered to be the two representatives from the Council. Marlesse suggested that UDVC, UCASA and a CJC have representation on this committee. Christine said that the SWAVO group determined after Reed and Mel left that they should have subject matter experts divide up the sections. Heidi asked exactly what this person would be doing. Christine said they would be the one writing it and pulling it all together, but the subject matter experts will be the ones to write specific sections. She isn't sure yet if they would contract it out or if the person would be able to become an employee of CVR. It was suggested that this could be a task an intern could do, but Christine wanted to hire someone with a basic knowledge of victim services and advocacy and law students could do components of the manual, but someone who is well known</p>

	should be the main author.
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Committee Reports:

Agenda Item:	Annual Crime Victims Conference, Yvette Rodier Evans
Discussion: Theme Keynotes Workshops Location Week long events Award Nomination Process	<p>The theme for next year's annual conference is "Helping Victims Achieve New Heights" and a photo of a Utah mountain range would help convey that theme. We should have an agenda finalized by the end of November which will help us apply for funding from OVC. We are still working on a location, which has been difficult, so Yvette asked if anyone has any connections in the hospitality world because people aren't really expressing an interest to host our Conference. Cecelia suggested NOAH'S in South Jordan or the Davis Conference Center. We have three bids so far, but need to finalize the location so we can get the heads-up flyer out.</p> <p>As far as week long events we will work with the District Rights Committee Chairs to coordinate that. James would like to get the local victims rights committees involved so this would give them something to do. James like the idea of chap sticks. If any one else has ideas on what to do for week-long events let either Yvette or Tammie know. Tammie is currently working on getting the awards donated. Patricia said you could get a good price on outer lying areas of the state so Tammie will look into that.</p>

Agenda Item:	Restitution, Mel Wilson
Discussion: Robert Williams Meeting	<p>AP&P Restitution Enforcement, Doug Fawson</p> <p>Doug met with Mike and Robin from AP&P to stress concerns from the committee and he said the reception was good. They are now emphasizing during AP&P training the importance of restitution. They also spoke of the difficulties of restitution being paid by parolees because they aren't employed. They said to let them know what's really important to us and they'll do everything they can to make the parolees compliant.</p> <p>Since the Board of Pardons is terminating more sentences than usual a lot of these inmates do have restitution owed so that may be something the Board wants to look into. Doug is sure that people who have never paid restitution are released. At this</p>

	<p>point the State Office of Debt Collection is where that money would be sent to. The Council suggested that the parole agents make it a threat to the parolee's that if they don't start contributing they will extend their parole 6 months, for example.</p> <p>Kirk thinks it would be a good idea to put into place a performance measure tool to ensure this aspect of their parole is getting done. For example: how many home visits have you had, how much restitution have you paid, etc. All the agents complain that their caseload is too big and especially with the hiring freeze.</p> <p>Julie Christensen is compiling all the restitution history from the past ten years to analyze it and see if some areas are better at collecting than others. Julie's study will be done in about two more months.</p> <p>On a separate note, when parole is terminated it is either a Board member or hearing officer, not the agent, who makes the decision. Reed suggested the agent say they recommend them for release but they still haven't paid this much restitution versus what they have been doing which is overlooking restitution completely. Mel thought that in terminating the person that those outstanding orders are then sent down to State Office of Debt Collection but in the district court there is a provision that says they can maintain jurisdiction over them because of restitution issues. The question then is does the board have any further action measures it can take once they are released without paying restitution?</p> <p>Mel indicated that they have had problems for years regarding restitution. For example one problem was that the agents would put "TBD" in their report and then restitution never ended up being determined. Kirk wants the Council to know that the money being sent to the State Office of Debt Collection is far from the solution because there aren't any consequences at all if it goes to debt collection. If you collect restitution and can't find the victim it goes into the unclaimed fund in the Treasury's Office. It is suppose to be sent to CVR but we would then have to assume the liability of paying it out down the road if someone came to ask for it. Scott Reed is currently looking into this. One thing the Council could do is set up a statute of limitations so we can get this money. The office is saying they don't have a way</p>
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	of tracking the money though, but Ron thinks they can take a small percentage and send the rest to CVR.
Discussion:	<p>Restitution Enforcement Unit, Mel Wilson</p> <p>Mel said he's done some evaluating and had people pull up the records of crime victim restitution from strictly CVR claims and it's interesting to see where that money is coming from. The juvenile court is a big contributor and some jurisdictions do a better job in the criminal arena than others. Certain areas of Salt Lake County do a good job. He said that we are only receiving 6% of the money that we are paying out so he wants a unit that will focus on collecting restitution. He thought that if we enhanced that 6% to 25% that alone would justify the manpower.</p>

Agenda Item:	Legislation, James Swink
Discussion: Post Conviction Rule Change	<p>Kirk Torgensen</p> <p>The post conviction rule change is underway and going through various committees' which Kirk indicated is going very smoothly. Kirk told the Council that people who claim they are innocent are allowed to get a cap of \$200,000. Because of this his staff has been doing these claims, sitting state-wide in depositions, when they could be using their time better. Therefore, if anyone is found to be innocent, prison inmates are going to try and get this money. Kirk said he wanted to send the cases back to the prosecuting county although the money would still come from the state. If the county attorney thinks we should settle this instead of flying all around then there is some inherit conflict. This could also become very problematic because even though the Legislature can reimburse, the money would be coming out of the victims fund. The bottom line is that there is a lot of work to do and Risk Management would need to be involved.</p>
Discussion: Son of Sam Statute	<p>Yvette Rodier Evans</p> <p>Andrew Stoddard from the Clinic presented on the Son of Sam statute update. Representative Webb has talked with Ester in the Office of Legislative Research who will work on and draft the bill right away. They are feeding her language from other states to include in the draft. The Council indicated the sooner we get the bill out there the better so the Council would like to know what her timeline is. Rep. Webb would like to meet once it's</p>

	<p>drafted to go through the bill with Yvette and James. We don't know if he's made it a priority bill so they will ask him to prioritize it.</p> <p>Yvette also wanted to make a quick update on Memorabilia to say that it is similar to other states that have been upheld and it doesn't need any changes at this time.</p>
Discussion: Expungement	<p>James Swink</p> <p>There are quite substantial changes to the expungement statute, which Lana and Chad are working on. James asked that if anyone had any concerns to please send them to him and he will relay those concerns in the next SWAP meeting. The changes include: It is much easier to read; It allows for the person to be charged if they submit false information; on page 35 it allows one felony to be expunged or three misdemeanors. The question is does the Council mind having those amounts expunged; do we want to allow anything different? Excluded from expungement though are sex offenses, DUI's, drug charges, etc. James said that they have talked to Paul Boyden who indicated that the NRA would kill the bill if a DV charge was added as an offense that could not be expunged. The time limits on expungements are seven years for a felony, five years for a Class A misdemeanor and three years for Class B and Class C misdemeanors. Jacey said there are several more changes, mostly small ones like changes to the definitions.</p>
Discussion: Judicial Victims Rights Committee	<p>James Swink, Mel Wilson</p> <p>Currently the Judiciary appoints the Judicial Victims Rights Committee Chairs, but the Chairs would like to switch that appointment from the Judiciary to the Council chair. Mel has done some drafting of language on this, which he passed out. In section 77-37-5 they changed "the presiding district court judge" to "the Utah Council on Victims of Crime." There is also seven subsections "a-g" which Mel doesn't think we need. The other change would be to forward the committee meeting minutes to the Council as opposed to CVR who is then suppose to forward them to CCJJ. He also struck language in paragraph three because it is redundant. Stewart Adams has opened the bill file so Mel will get this new language to him.</p>
Discussion: Children's Justice Center Confidentiality Statute	<p>Laura Blanchard</p> <p>The children's justice center confidentiality statute is going to be</p>

	<p>located under the victims' rights statute. Its purpose is to provide protection to the child during the investigation phase including the protection of any videos from being given out except by the courts issuance from an order. Representative Lorie Fowlke was immediately concerned because the defense has right of access, but as Laura indicated, not right to possess and keep it. Once she understood this, she was alright with it. James would like this bill to be a priority, but Laura has not heard back yet about priority status. Laura would like input from the Council on whether we need to coordinate this with the GRAMA statute. The Council agreed that this would be exempt from GRAMA because of the existence of another statute. DCFS application of this was even more diverse than prosecutor's application; as a result DCFS is now looking over their policies.</p>
Discussion: DNA Changes	<p>Reed Richards</p> <p>Reed said that he thought about going a year without a DNA change, but he's become aware from several law enforcement conferences that Ed smart is trying to change the DNA statute for felonies. He wants law enforcement to take DNA at the time of arrest not at conviction. The Council expressed an interest to join forces with him, although we're not sure if he's approached anyone yet. They thought that we should meet with Ed before our next meeting so Cecelia will give Reed Ed's phone number. We have the bill filed with Stewart Adams, but it would be a significant change so Ron wants to make sure this is fully discussed and voted on before it goes to the Legislature. A couple issues would be fees and charges being changed from felonies to misdemeanors and vice versa.</p>
Discussion: Juvenile Fingerprinting	<p>Mike Rapich</p> <p>The legislation for fingerprinting doesn't say you shall take prints, but rather if you do, you must forward them to the BCI. It seemed like a few years ago they were doing a lot of fingerprinting, but hardly any now so Mike followed up with the BCI. Kyle asked if it was DNA kits or fingerprinting because they usually do DNA kits. Mike said mostly in Salt Lake they are doing fingerprinting. He wondered if DNA issues have confused the routing process, because over time the kits have dwindled down. In JJS they take the DNA kits and send it off to the DNA analysis center, but that's only after conviction. Kyle and Mike will keep working on this and we will follow up on this in the next meeting.</p>

Agenda Item:	POST Victimology Training, Patricia Sheffield
Discussion:	Patricia has created an outline for the POST victimology training and has given it to Kirk where it is currently being looked over by three people. She said that by the 30 th of November it will be done so please add this item to the next meeting's agenda.

Agenda Item:	Judicial Training, Reed Richards
Discussion:	Reed said that he was hoping to get on the schedule for the judicial spring training and he will continue to work on this.

Agenda Item:	Victim Impact Education Program, Doug Fawson
Discussion:	The Victim Impact Education Program was currently available to inmates in two programs: the sex offender treatment program which constitutes 30% of inmates and the Hope program which is a drug treatment program. It will now be available to everyone, though not required (except for those two programs), in all facilities except for the Uintah's maximum security unit for various reasons.

Agenda Item:	Juvenile Justice Issues, Kyle Goudie
Discussion: Graduated Sanctions Model	Kyle had to leave before his discussion item so he asked if we could move it to the next meeting's agenda and he can present it at that time.

Agenda Item:	Next Meeting
Discussion:	The next meeting will be January 14 th at noon. There will be no lunch served so everyone can either go through the café on the Capitol grounds or bring your own lunch or eat beforehand.

Action Items:	
	<ul style="list-style-type: none"> • Add Academy sub-committee to next agenda • Mel and Christine find a person to author the manual • Cecelia give Reed Ed Smart's phone number • Add fingerprinting issue to next agenda

	<ul style="list-style-type: none">• Add POST Victimology Training to next agenda• Add Juvenile Justice Issues to next agenda
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